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5	Attorneys for Plaintiff	
6	IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA	
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9	MR. GARY ZIEROTH as the representative of the estate of MRS. SHARON ZIEROTH,) Case No. 3:20-cv-00172-MMC
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11	Plaintiff) PLAINTIFF'S NOTICE OF MOTION AND
12	v.	MOTION FOR ATTORNEYS' FEES AND
13	ALEX AZAR, in his capacity as Secretary of the	OSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT
14	United States Department of Health and Human	Ó
15	Services,	Date: November 20, 2020, 9:00am Location: Courtroom F, 15 th Fl, 450 Golden
16	Defendant	Gate Ave, San Francisco, CA 94102
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18	TO ALL PARTIES AND THEIR COUNSEL, please take notice that at 9:00am on	
19	November 20, 2020, at Courtroom F, 15 th Fl, 450 Golden Gate Ave, San Francisco, CA 94102,	
20	Plaintiff Mr. Gary Zieroth, as the representative of the estate of Mrs. Sharon Zieroth will bring	
21	his motion for attorneys' fees and costs under the Equal Access to Justice Act. Plaintiff's motion	
22	is supported by this notice of motion and motion and attached brief in support.	
23	Plaintiff's motion should be granted because the Secretary's position that a CGM is not	
24	"nrimarily and austomarily used to serve a medical nurness" was and is knowingly frivolous and	
25	"primarily and customarily used to serve a medical purpose" was and is knowingly frivolous and	
26	in bad faith. The Court having rejected the Secretary's claim, Plaintiff is entitled to his	
27	attorneys' fees and costs pursuant to 28 U.S.C. § 2412(b). Alternatively, the Secretary's position	
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that a CGM is not "primarily and customarily used to serve a medical purpose" lacked substantial justification. Accordingly, Plaintiff is entitled to his attorneys' fees and costs pursuant to 28 U.S.C. § 2412(d). Dated: October 10, 2020 Respectfully submitted, PARRISH LAW OFFICES /s/ James C. Pistorino James C. Pistorino Attorneys for Plaintiff

Case No. 3:20-cv-00172-MMC Motion for Fees